



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 22, 1995

Ms. Elizabeth A. Lunday  
Assistant City Attorney  
City of Mesquite  
P.O. Box 850137  
Mesquite, Texas 75185-0137

OR95-790

Dear Ms. Lunday:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31280.

The City of Mesquite (the "city") received an open records request for certain "Fire Department Run Reports." The reports requested are Emergency Medical Service (EMS) reports. You contend that the reports requested are excepted from required public disclosure by section 552.101 of the Government Code when read in conjunction with other confidentiality statutes, specifically, V.T.C.S. article 4495b, section 5.03(b) of the Medical Practice Act and section 773.091 of the Health and Safety Code. You have submitted for our review copies of the requested EMS reports.

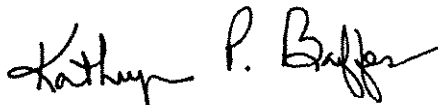
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 773.091(b) of the Health and Safety Code protects from public disclosure the following:

[r]ecords of the identity, evaluation, or treatment of a patient by emergency medical services personnel... that are created by the emergency medical services personnel... or maintained by an emergency services provider. . . .

This office, applying a similar analysis to the Emergency Medical Services Act as it did to the Medical Practice Act, concluded that this provision in the Health and Safety Code provides for the same confidentiality, exceptions to confidentiality, and requirements for the release of information as does section 5.08 of the Medical Practice Act. See Open Records Decision Nos. 632 (1995) at 2, 598 (1991) at 3 n.2. Consequently, absent consent to release this type of information pursuant to section 773.093 of the Health and Safety Code, this type of information in the EMS reports is confidential and must be withheld. This confidentiality protection, however, does not extend to all of the information contained in the submitted EMS reports. This confidentiality provision "does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services." Health & Safety Code § 773.091(g). Therefore, the portions of the submitted EMS reports reflecting this type of information must be disclosed.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes  
Assistant Attorney General  
Open Government Section

KPB/LRD/rho

Ref: ID# 31280

Enclosures: Submitted documents

cc: Mr. Curtis Mack Johnson  
3519 Susan Drive  
Mesquite, Texas 75150  
(w/o enclosures)